

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DANNY RODRIGUEZ,

Plaintiff,

- against -

CAPTAIN MORTON, C.O. GORI, C.O. STEVENS,  
C.O. SCOTT, C.O. CRESPO, C.O. ANDERSON,  
C.O. CORREIA, Sgt. CHAMBERLIN, and  
unknown officer of the Downstate Corr.  
Fac. Staff,

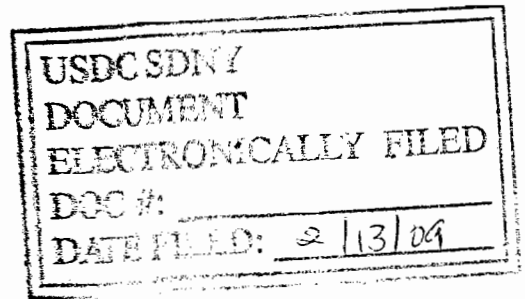
Defendants.

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DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the January 8, 2009  
Report and Recommendation of United States Magistrate Judge Debra  
Freeman.

Pursuant to 28 U.S.C. § 636(b)(1)(C), upon the issuance of a  
United States Magistrate Judge's Report and Recommendation and  
"[w]ithin ten days after being served with a copy, any party may  
serve and file written objections to such proposed findings and  
recommendations." 28 U.S.C. § 636(b)(1)(C); see also Fed. R.  
Civ. P. Rule 72(b). Despite having being advised of this  
procedure in Magistrate Judge Freeman's January 8, 2009 Report  
and Recommendation, to date, neither Plaintiff nor Defendants  
have filed any objections.

Where no timely objection to a Report and Recommendation has  
been made, "a district court need only satisfy itself that there



is no clear error on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). The court may then accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1)(C); see also Local Civil Rule 72.1(d).

Having reviewed the Report and Recommendation, and finding no clear error on the face of the record, it is hereby ORDERED AND ADJUDGED as follows:

1. The Report and Recommendation of United States Magistrate Judge Debra Freeman, dated January 8, 2009, be and the same hereby is, APPROVED, ADOPTED, and RATIFIED by the Court in its entirety;


2. Pursuant to Magistrate Judge Freeman's recommendations, Defendants' Motion for Partial Summary Judgment is GRANTED. As such, all claims asserted by Plaintiff against Defendant Morton are dismissed, and all claims other than Plaintiff's excessive force claims, which were not challenged on summary judgment, are dismissed against remaining Defendants Gori, Stevens, Scott, Crespo, Anderson, Correia, and Chamberlain; and

3. Parties shall submit their Proposed Voir Dire Questions and Proposed Requests to Charge to this Court, in conformity with the Court's Individual Rules, no later than April 13, 2009. Parties shall file their Joint Pre-Trial Statement ("JPTS") and

respective Memoranda of Law addressing the issues raised in the JPTS, in conformity with this Court's Individual Rules, by May 12, 2009. Responses to the Memoranda of Law shall be submitted by May 22, 2009. There shall be no replies. The Parties shall further provide each other their full cooperation for the purposes of preparing for trial and adhering to this schedule.

SO ORDERED

DATED: New York, New York  
February 13, 2009

  
DEBORAH A. BATTS  
United States District Judge